

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DARRELL WENDELL NICKELSON,

Plaintiff,

-against-

NYPD 40TH PRECINCT, et al.,

Defendants.

25-CV-4711 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who currently is in pretrial detention on Rikers Island, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants falsely arrested him on October 31, 2024. For the following reasons, the complaint is dismissed.

Plaintiff previously submitted a substantially similar complaint against Defendants. *Nickelson v. DeMarchena*, No. 25-CV-3847 (“*Nickelson I*”). Plaintiff initially filed *Nickelson I* in the United States District Court for the Eastern District of New York, and on May 8, 2025, the Eastern District of New York transferred the action to this court. On May 15, 2025, this Court granted Plaintiff’s application to proceed *in forma pauperis*.

Because this complaint raises the same claims as raised in *Nickelson I*, no useful purpose would be served by the filing and litigation of this duplicate lawsuit. The Court therefore dismisses the complaint without prejudice to Plaintiff’s litigation of *Nickelson I*. Should Plaintiff wish to amend the complaint filed in *Nickelson I*, he may do so in that action as permitted under Rule 15 of the Federal Rules of Civil Procedure.¹

In light of the Court’s belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this

¹ Under Rule 15(a)(1)(A) of the Federal Rules of Civil Procedure, a plaintiff can amend his complaint one time within 21 days after serving the complaint on the defendant.

action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

CONCLUSOIN

The Court dismisses Plaintiff's complaint as duplicative of *Nickelson v. DeMarchena*, No. 25-CV-3847.

The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter a civil judgment in this action.

SO ORDERED.

Dated: June 9, 2025
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge